

Court Clerk's Office
Courtesy Copy Please

IN THE EIGHTH JUDICIAL
COURT OF THE STATE OF NEVADA
THE COUNTY OF CLARK

Electronically Filed
11/02/2020 11:49 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Thomas Cash 3
*1203562 Plaintiff, 3 CASE No. A-20-818971-W
3 Dept. No. IX

v.

William Gittere, 3
WARDEN, 3
STATE OF NEVADA 3
Defendant, 3

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that THOMAS CASH
DEFENDANT ABOVE NAMED, hereby appeals to
the SUPREME COURT OF NEVADA from the
DENIAL of his PETITION FOR WRIT OF HABEAS
CORPUS (POST-CONVICTION) AND his MOTION
FOR APPOINTMENT OF COUNSEL ENTERED IN THIS
ACTION ON the 7 DAY of Oct, 2020.

Dated this 28 DAY of Oct, 2020

Thomas Cash
THOMAS CASH
Appellant

RECEIVED

NOV 02 2020

CLERK OF THE COURT

CERTIFICATE OF SERVICE

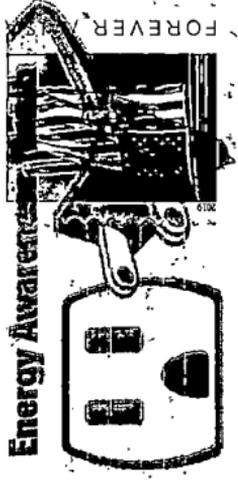
IT IS HEREBY CERTIFIED by the undersigned that on 28 day of Oct., 2020, I served a true and correct copy of the foregoing NOTICE OF APPEAL on the parties listed on the attached service list via one or more of the methods of service described below as indicated next to the name of the served individual or entity by a checked box:

VIA U.S. MAIL: by placing a true copy thereof enclosed in a scaled envelope with postage thereon fully prepaid, in the United States MAIL at Ely State PRISON, NEVADA

By: Thomas Cash
THOMAS CASH
Appellant

THOMAS CASH 1203562#
P.O. Box 1989
ELY, NV. 89301

LEGAL MAIL

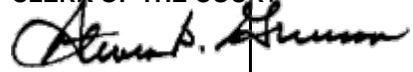


LAS VEGAS NV 890
29 OCT 2020 PM 4 L

STEVEN D. GRIERSON
CLERK of the COURT
200 LEWIS AVE. 3RD FLOOR
LAS VEGAS, NV. 89155-1160



99101-630000



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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

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10 THOMAS CASH,

Case No: A-20-818971-W

11 Plaintiff(s),

Dept No: IX

12 vs.

13

14 WILLIAM GITTERE,

15 Defendant(s),

16

17

CASE APPEAL STATEMENT

18

1. Appellant(s): Thomas Cash

19

2. Judge: Cristina D. Silva

20

3. Appellant(s): Thomas Cash

21

Counsel:

22

23 Thomas Cash #1203562
24 P.O. Box 1989
Ely, NV 89301

25

4. Respondent (s): William Gittere

26

Counsel:

27

28 Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89155-2212

- 1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
2 Permission Granted: N/A
3 Respondent(s)'s Attorney Licensed in Nevada: Yes
4 Permission Granted: N/A
5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
6 7. Appellant Represented by Appointed Counsel On Appeal: N/A
7 8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
8 **Expires 1 year from date filed
9 Appellant Filed Application to Proceed in Forma Pauperis: No
10 Date Application(s) filed: N/A
11 9. Date Commenced in District Court: August 3, 2020
12 10. Brief Description of the Nature of the Action: Civil Writ
13 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
14 11. Previous Appeal: No
15 Supreme Court Docket Number(s): N/A
16 12. Child Custody or Visitation: N/A
17 13. Possibility of Settlement: Unknown

18 Dated This 3 day of November 2020.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Amanda Hampton

21 Amanda Hampton, Deputy Clerk
22 200 Lewis Ave
23 PO Box 551601
24 Las Vegas, Nevada 89155-1601
25 (702) 671-0512

26 cc: Thomas Cash
27
28

CASE SUMMARY
CASE NO. A-20-818971-W

Thomas Cash, Plaintiff(s)
vs.
William Gittere, Defendant(s)

§
§
§
§
§

Location: **Department 9**
 Judicial Officer: **Silva, Cristina D.**
 Filed on: **08/03/2020**
 Cross-Reference Case Number: **A818971**

CASE INFORMATION

Related Cases
 C-18-329699-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**
 Case Status: **08/03/2020 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-20-818971-W
Court	Department 9
Date Assigned	08/03/2020
Judicial Officer	Silva, Cristina D.

PARTY INFORMATION

Plaintiff	Cash, Thomas	<i>Lead Attorneys</i>
		Pro Se
Defendant	Gittere, William	Wolfson, Steven B <i>Retained</i> 702-455-5320(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

- 08/03/2020  Inmate Filed - Petition for Writ of Habeas Corpus
 Party: Plaintiff Cash, Thomas
Post Conviction

- 08/03/2020  Memorandum of Points and Authorities
 Filed By: Plaintiff Cash, Thomas
Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus

- 08/03/2020  Motion for Appointment of Attorney
 Filed By: Plaintiff Cash, Thomas
Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing

- 08/03/2020  Motion for Order
 Filed By: Plaintiff Cash, Thomas
Ex Parte Motion for Order to Transport Prisoner

- 08/03/2020  Affidavit
 Filed By: Plaintiff Cash, Thomas

- 08/06/2020  Order for Petition for Writ of Habeas Corpus
Order for Petition for Writ of Habeas Corpus

CASE SUMMARY
CASE NO. A-20-818971-W

08/07/2020

 Clerk's Notice of Hearing
Notice of Hearing

09/18/2020

 Response
 Filed by: Defendant Gittere, William
State's Response to Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction), Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction), Motion for Appointment of Counsel, and Request for an Evidentiary Hearing

11/02/2020

 Notice of Appeal
Notice of Appeal

11/03/2020

 Case Appeal Statement
 Filed By: Plaintiff Cash, Thomas
Cash Appeal Statement

HEARINGS

10/07/2020

Petition for Writ of Habeas Corpus (1:45 PM) (Judicial Officer: Silva, Cristina D.)
 Denied;

10/07/2020

Motion for Appointment of Attorney (1:45 PM) (Judicial Officer: Silva, Cristina D.)
Plaintiff's Ex Parte Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing
 Motion Denied;

10/07/2020

Motion (1:45 PM) (Judicial Officer: Silva, Cristina D.)
Plaintiff's Ex Parte Motion for Order to Transport Prisoner
 Motion Denied;

10/07/2020

 **All Pending Motions (1:45 PM)** (Judicial Officer: Silva, Cristina D.)
 Matter Heard;
 Journal Entry Details:

PETITION FOR WRIT OF HABEAS CORPUS... PLAINTIFF'S EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING.. PLAINTIFF'S EX PARTE MOTION FOR ORDER TO TRANSPORT PRISONER... Defendant not present and in custody in the Nevada Department of Corrections; Deputy District Attorney John Torre present on behalf of the State. COURT ORDERED the Motion for Transport Prisoner is DENIED; there was no basis to transport the Defendant, as the Court can make a ruling based on the pleadings, and ORDERED Defendant's presence WAIVED. COURT FURTHER ORDERED, Request for Evidentiary Hearing and Appointment of Counsel DENIED, adding the Court has already reviewed the Petition for Writ of Habeas Corpus, which is ORDERED DENIED, and FINDS there was no particular complexity that would have necessitated appointment of counsel, and nothing in the Petition meets the threshold for setting an evidentiary hearing. COURT FURTHER FINDS the Petition is DENIED as for the reasons set forth in the State's Opposition, and the COURT does not find the State improperly used his post arrest silence against him, the Court also properly deemed the Defendant to Habitual Offender, and there is nothing that precludes the Judge from reviewing a Juvenile record when preparing for sentencing; and FINDS the allegation that the Jury Instructions used in his case were unfair, and appear there is nothing beyond what is set forth in the Petition that they are standard Jury Instructions, adding the Defendant argues without support or argument the instructions were unfair, and COURT DENIES the Petition on that basis. COURT ADDITIONALLY FINDS the Defendant fails to meet the required burden under Strickland v. Washington, to demonstrate ineffectiveness of counsel, which applies to trial counsel, and appellate counsel; Defendant also claims he was prejudiced since he did not have a meeting with appellate counsel, which is not a basis to grant in a Petition for Writ of Habeas Corpus, appellate counsel has a broad description to raise issues they feel is necessary. COURT FURTHER FINDS many of the allegations set forth in this Petition, should have been waived on Direct Appeal, and to the point they were not raise, the Defendant waives his right to raise those allegations in a Petition. COURT DIRECTED the State to prepare and submit an Order

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-20-818971-W

*within thirty days. NDC CLERK'S NOTE: A copy of this Minute Order has been mailed to:
Thomas Cash #1203562, PO BOX 1989, Ely, Nevada 89301. (10-12-2020);*

DISTRICT COURT CIVIL COVER SHEET

A-20-818971-W
Dept. 9

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): <p style="text-align: center;">Thomas Cash</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">William Gittere</p>
Attorney (name/address/phone):	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types		
<p>Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p>Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p>Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p>Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p>Probate</p> <p><i>Probate (select case type and estate value)</i></p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<p>Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p>Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p>Civil Writ</p> <p>Civil Writ</p> <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant		<p>Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

August 3, 2020

PREPARED BY CLERK

Date

Signature of initiating party or representative

See other side for family-related case filings.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

October 07, 2020

A-20-818971-W Thomas Cash, Plaintiff(s)
vs.
William Gittere, Defendant(s)

October 07, 2020 1:45 PM All Pending Motions

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Kory Schlitz

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS... PLAINTIFF'S EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING.. PLAINTIFF'S EX PARTE MOTION FOR ORDER TO TRANSPORT PRISONER...

Defendant not present and in custody in the Nevada Department of Corrections; Deputy District Attorney John Torre present on behalf of the State.

COURT ORDERED the Motion for Transport Prisoner is DENIED; there was no basis to transport the Defendant, as the Court can make a ruling based on the pleadings, and ORDERED Defendant's presence WAIVED. COURT FURTHER ORDERED, Request for Evidentiary Hearing and Appointment of Counsel DENIED, adding the Court has already reviewed the Petition for Writ of Habeas Corpus, which is ORDERED DENIED, and FINDS there was no particular complexity that would have necessitated appointment of counsel, and nothing in the Petition meets the threshold for setting an evidentiary hearing. COURT FURTHER FINDS the Petition is DENIED as for the reasons set forth in the State's Opposition, and the COURT does not find the State improperly used his post arrest silence against him, the Court also properly deemed the Defendant to Habitual Offender, and there is nothing that precludes the Judge from reviewing a Juvenile record when preparing for sentencing; and FINDS the allegation that the Jury Instructions used in his case were unfair, and

appear there is nothing beyond what is set forth in the Petition that they are standard Jury Instructions, adding the Defendant argues without support or argument the instructions were unfair, and COURT DENIES the Petition on that basis. COURT ADDITIONALLY FINDS the Defendant fails to meet the required burden under Strickland v. Washington, to demonstrate ineffectiveness of counsel, which applies to trial counsel, and appellate counsel; Defendant also claims he was prejudiced since he did not have a meeting with appellate counsel, which is not a basis to grant in a Petition for Writ of Habeas Corpus, appellate counsel has a broad description to raise issues they feel is necessary. COURT FURTHER FINDS many of the allegations set forth in this Petition, should have been waived on Direct Appeal, and to the point they were not raise, the Defendant waives his right to raise those allegations in a Petition. COURT DIRECTED the State to prepare and submit an Order within thirty days.

NDC

CLERK'S NOTE: A copy of this Minute Order has been mailed to: Thomas Cash #1203562, PO BOX 1989, Ely, Nevada 89301. (10-12-2020)



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

THOMAS CASH #1203562
P.O. BOX 1989
ELY, NV 89301

DATE: November 3, 2020
CASE: A-20-818971-W

RE CASE: THOMAS CASH vs. WILLIAM GITTERE

NOTICE OF APPEAL FILED: November 2, 2020

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the court.*
- Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- Order
- Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

THOMAS CASH,

Plaintiff(s),

vs.

WILLIAM GITTERE,

Defendant(s),

Case No: A-20-818971-W

Dept No: IX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 3 day of November 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

